67

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No. 2379 of 2001

Petitioners

1. Shankar Lal S/o Baisakhu Ram
   Aged about 27 years
2. Dular Singh S/o Roop Singh, Verma,
   Aged about 41 years
3. Dilip Kumar S/o Sundaru Kewat
   Aged about 28 years
4. Madan son of Manrakhan Chauhan,
   Aged about 35 years
   All residents of village Kura,
   Block Nawagarh, Tah. Nawagarh,
   Distt. Durg (C.G.)

versus

Respondents

1. Gram Panchayat, Kura,
   Block Nawagarh, Tah. Nawagarh,
   Distt. Durg (C.G.)
   Through : Sarpanch
2. Collector, Durg (C.G.)
3. Commissioner, Raipur Division,
   Raipur (C.G.)

Present : Dr. N.K. Shukla, Sr. Advocate with Shri Chandresh Shrivastava, counsel for the petitioners.
Shri Sunil Sahu, counsel for respondent No.1.
Shri Sumesh Bajaj, Govt. Advocate for the State/respondents No. 2 & 3.

ORAL ORDER

(Passed on 25th April, 2007)

The petitioners are residents of village Kura, Tahsil Nawagarh, District Durg. The respondent No.1 Gram Panchayat had granted three ponds known as (i) Devaraha Pond (ii) Buddhu Pond and (iii) Paunsari Rasta Pond, on lease for a period of ten years commencing from 15-06-1999, to the petitioners. During the currency of lease period, the respondent No.1 Gram Panchayat has cancelled the lease. Aggrieved by this

action of the Gram Panchayat the petitioners are before me in this writ petition filed under Articles 226/227 of the Constitution of India.

(2) Learned counsel appearing for the petitioners would submit that the Gram Panchayat without issuing any show cause notice to the petitioners, has cancelled the lease granted to the petitioners which is arbitrary, illegal and in violation of the Rules of natural justice. The respondents have filed their returns contending that show cause notice has been issued to the petitioners but they have refused to receive the same.

(3) After cancellation of the lease, the Gram Panchayat has not leased the said ponds to any third party. Therefore, no third party interest is created as on today.

(4) The assertion is made that no notice was issued to the petitioners. The said assertion is disputed by the respondents by filing their counter. These are the disputed facts which cannot be sorted out in a petition under Articles 226/227 of the Constitution of India. Therefore, in my opinion if a direction is issued to the Gram Panchayat to issue a fresh show cause notice to the petitioners and a further direction is issued to the petitioners to receive the same and file their reply, if any and ~~yet~~ further direction is issued to the Gram Panchayat to pass an appropriate order, no prejudice would be caused to any party. Accordingly, the following :-

ORDER

1. The petition is disposed of.
2. A direction is issued to the Gram Panchayat to issue a fresh show cause notice to the petitioners asking them to show cause why the lease granted to them earlier should not be cancelled.

3. The petitioners shall receive the show cause notice issued by the Gram Panchayat and file their reply, if any.

4. The Gram Panchayat shall consider the reply that may be filed by the petitioners, in accordance with law and issue an appropriate endorsement to the petitioners.

5. All other contentions of the parties are left open.

6. Ordered accordingly.

Sd/-
Chief Justice